IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 181 OF 2004

Kum. Shweta Kesarinath Shivdikar ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. R.K. Mendadkar with Mr. V.A. Madane for Petitioner.

Mr. R.M. Sawant, Government Pleader for Respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : MARCH 20, 2006

P.C.

. The Petitioner’s claim as belonging to Mahadeo Koli, S.T. has been rejected. It is not necessary for us to give detailed reasons in view of the order to be passed. The principal contention urged on behalf of the Petitioner by the learned counsel is as under :

(1) That though while admitting the Petitioner’s grand father in nursery school, the caste is shown as Koli and yet in the primary school immediately thereafter the caste was shown as Mahadeo Koli.

The home enquiry report does not state that the second entry has been subsequently made and or was based on any alteration.

(2) It is further submitted that the committee relied on the caste of Krishnabai Sharavan Shivadikar the sister of the Petitioner's father. Whereas in 1941, the caste was shown as Koli. This being the case, those documents could not have been used against the Petitioner for drawing an adverse inference.

(3) It is further stated that in the home study report, the traits and characteristics of the Petitioner were noted by the committee. However, the committee did not take into consideration the tribal traits and characteristics.

(4) It has also been submitted that the order of this court in the case of Petitioner's aunt, Smt. Hemalata Shivadikar, which was decided on 17.6.1992 in Writ Petition No. 2085 of 1986 was not taken into consideration. We may at the outset mention that the same was before the committee was set up

to scrutinize the caste validity of those who claim to belong to ST/SC/OBC groups.

. Considering what we have set out earlier, in our opinion, as the Petitioner has no other remedy at law, the impugned order is liable to be set aside and the matter is remanded back to the committee for reconsideration after hearing the Petitioner and giving the petitioner an opportunity of meeting whatever documents which the committee is likely to use against the Petitioner.

. The Petitioner to appear before the committee on 28.3.2006 at 11.00 a.m. for further directions. The committee thereafter to complete the enquiry within four months. In the meantime, the Petitioner's study should not be affected. It is, however, made clear that the continuance of the Petitioner would be dependent on the Petitioner's obtaining caste validity certificate. The Petitioner, because of the order of this court, can claim no equity. Rule made partly absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)